THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.1146 OF 1998

ORAL ORDER:

The petitioner is working in the Life Insurance Corporation. She was appointed on the basis of a community certificate issued by the then Tahasildar in the year 1981, certifying that she belongs to Valmiki caste (ST). While so, on a reference made by the Life Insurance Corporation of India authorities, enquiry as to the genuineness of the community of the petitioner, was initiated and, ultimately, by order dated 10.1.1997, passed by the Collector and District Magistrate, East Godavari District, Kakinada, the community certificate obtained by the petitioner was cancelled. Aggrieved by the said order, this writ petition is filed. The petitioner also sought a declaration that Rule 11 of the Andhra Pradesh (SC, ST & BCs) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 (for short " Rules, 1997"), is arbitrary, illegal and contrary to Section 7(2) of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act"). However, when the matter is taken up for consideration, the learned counsel for the petitioner, across the Bar, submitted that the prayer to the extent of validity of Rule 11 of the Rules, 1997, is not pressed.

Though various other grounds have been raised on merits with regard to the correctness of the impugned order dated 10.11.1997, the learned counsel for the petitioner primarily contended that since the enquiry initiated against the petitioner was pending on the date of commencement of the Act, i.e., 16.5.1997, the 2nd respondent ought to have followed the procedure prescribed under the Rules, 1997, and since, admittedly, the said procedure has not been followed, the impugned order is liable to be set aside.

Proviso to sub-section (1) of Section 5 says that where the enquiry into the genuineness of a community certificate issued prior to

the commencement of the Act, has commenced and is pending at such commencement, the record thereof shall be transferred by the concerned authority to the District Collector and he shall continue the enquiry and conclude the same under sub-section (1) of Section 5. While interpreting the said provision, this Court in **J. Krushnam Raju v. Commissioner of Tribal Welfare Department**[1], held that as per Section 5 of the Act, it is only the District Collector who is competent to pass order and that has to be done following the procedure prescribed under the Rules made under the Act, 1993.

In the circumstances, I find force in the submission of the learned counsel for the petitioner that the impugned order which was passed without following the procedure prescribed under rule 9 of the Rules is illegal.

Accordingly, the order impugned is set aside and the writ petition is disposed with a direction to the 2nd respondent to initiate fresh enquiry in accordance with the provisions of Rules 1997, and to pass appropriate orders in accordance with law. Such exercise shall be completed as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. No costs.

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(G. ROHINI, J.)

28th July, 2006.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.1146 OF 1998

28th July, 2006.

Between:

Smt. B. Swarjya Lakshmi. .. Petitioner.

And

The State of Andhra Pradesh, represented by its Principal Secretary to Government, Social Welfare Department, Secretariat Buildings, Hyderabad and four others. .. Respondents.

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[1] 2001(6) ALT 152.